

Pain Management Malpractice - Anesthesiologist

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Ohio Pain Management Physician Faces 19 Malpractice Suits, Files for Bankruptcy July 06, 2010

DAYTON — When John Fouts was considering laser spine surgery to correct his back pain, he attended one of Dr. Lawrence Rothstein's group sales meetings. Rothstein told his guests that the operation, using the technique he invented, was nearly no-risk, and that no patient had ever been left in worse condition after the surgery, according to a lawsuit Fouts filed April 15, 2010.

"In reality, defendant Rothstein has had multiple malpractice claims against him as a result of this procedure where patients had catastrophic injuries," according to Fouts' complaint. Fouts of Palmyra, Ind., had the surgery in April 2009. He is now one of 19 Rothstein patients with medical malpractice cases pending in Montgomery County Common Pleas Court.

One was to go trial Tuesday, July 6, 2010 and others have trial dates, but all have been stayed following Rothstein's bankruptcy filing last week.

Rothstein has settled at least three cases and lost two jury trials, including a \$5 million judgment for Sally Clawson. During a 2008 deposition, Rothstein acknowledged that his consent forms stated that he was the "only physician who performs this procedure" and no other doctor is qualified to render an opinion on it, said attorney Jay Kelley, who represented Clawson at trial.

In his bankruptcy petition, Rothstein lists two other cases, one in Hamilton County and one in Louisville.

In the Hamilton County case, Rothstein lost a \$1.372 million judgment after a jury found he performed a surgical procedure that permanently maimed a patient.

The laser surgery, called AccuraScope, is being marketed across the country. Rothstein, who is chief medical officer for North American Spine, which has offices in Dallas and Dayton, advertises in airline magazines and on the Internet. Patients have come to Dayton to have the surgery from across the country and beyond. Plaintiffs who have filed against Rothstein come from Florida, North Carolina, Arizona and Saskatchewan.

Rothstein, 48, graduated from the Ohio State University College of Medicine. His website says he is board certified in anesthesia and pain medicine. In 2001, he was arrested in a suburb of Columbus and charged with cocaine possession. He went into drug rehabilitation and his license was suspended from September 2001 until April 1, 2002. He remained on probation with the medical board until April 11, 2007, just weeks after Clawson's second surgery. Rothstein started the practice in 2006, originally located in the Riverview Health Institute at 1 Elizabeth Place, the former site of Franciscan Medical Center, according to a February 2009 Dayton Business Journal article. Rothstein now practices in Centerville.

Once known as Dayton Laser Spine, it became known as North American Spine, with financial headquarters in Dallas. The practice treated 400 people, using AccuraScope surgery, in 2008, which the DBJ article said “equates to about \$11.8 million in revenue from that procedure alone.”

Months before the trial started, the Clawsons’ legal team learned that Rothstein did not have malpractice insurance. Ohio law does not require insurance, but a doctor who does not have it must inform patients in writing and obtain a signed consent form prior to treatment in non-emergency cases. This did not happen in the Clawson case, according to Kelley.

In an affidavit filed in March, Rothstein claimed that he has entrusted his financial affairs to his brother, Steven M. Rothstein, an attorney, since July 2007 and that “at the time of Ms. Clawson’s claim, I learned for the first time that Riverview Health had not maintained my malpractice insurance for prior injuries.” A more recent lawsuit claimed that Rothstein was insured by a “captive” company in the Cayman Islands, but charged that the Rothsteins had created the company to circumvent the Ohio law.

In May, Riverview Health Institute sued Steven Rothstein for legal malpractice. Steven Rothstein was paid an annual \$50,000 retainer to give RHI legal advice from August 2007 until May 2009. He was also representing his brother and “devised and implemented a legal plan to isolate the assets of Dr. Rothstein from all judgment creditors, thus leaving RHI as the only financially responsible party-defendant subject to pending joint and several malpractice claims.”

Posted On: **January 18, 2011**

Patients ask judge to bar equipment maker from selling to back surgeon

Former patients of an orthopedic surgeon in Dayton, Ohio, have petitioned a federal court to force a medical device company to stop selling him medical equipment. The complaint, filed in U.S. District Court against Roswell, Ga.-based Mylotec Inc., also seeks damages for 19 former patients of Dr. Lawrence Rothstein.



CHRIS STEWART Sally Clawson (left) won a multi-million dollar judgment against Dr. Lawrence Rothstein after she went in for noninvasive spinal surgery and came out with serious brain damage. Currently there are 19 medical malpractice cases filed against Rothstein in Montgomery County. Clawson now lives with her son and daughter-in-law Michael and Melissa Clawson and their three children.